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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,368	11/25/2003	Donald E. Weder	8404.031	6027
30589	7590	11/20/2006	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			ROSSI, JESSICA	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 11/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/721,368	WEDER, DONALD E.	
	Examiner Jessica L. Rossi	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 September 2006.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5 and 14-17 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5, 14-17 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is in response to the amendment dated 9/6/06. Claims 6-13 and 18-23 were cancelled. Claims 1-5 and 14-17 are pending.
2. The rejection of claims 1 and 14 under 35 USC 102(b) as being anticipated by Weder '606, as set forth in paragraph 2 of the previous action, has been withdrawn in light of Applicant's arguments presented in the last paragraph on p. 8 of the remarks – the reference fails to teach forming the sheet of material about the outer peripheral surface of the flower pot to provide the decorative covering.
3. The rejection of claims 1 and 14 under 35 USC 103(a) as being unpatentable over Weder '606 in view of Rusincovitch '929, as set forth in paragraph 4 of the previous action, has been withdrawn for the reason set forth in the previous paragraph.

### ***Terminal Disclaimer***

4. The terminal disclaimer filed on 9/6/06 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US PAT 5,752,360 and US PAT 6,564,507 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. Claims 1-5 and 14-17 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Weder (EP 0 582 853, of record) in view of Weder (US 5307606, of record) and/or Rusincovitch (US 5487929, of record), as set forth in paragraph 6 of the previous action.

*One reading the present disclosure in light of the present claims and the statement provided on p. 3 of the IDS would have appreciated that Applicant believes his contribution to the prior art is providing a method for wrapping a floral grouping with a sheet of material constructed of paper (or other materials) having an embossed pattern formed thereon.*

Weder '853 teaches a method for providing a decorative covering for a flower pot (column 1, lines 8-10) by providing a sheet of material 32 having a first surface and a second surface, the sheet being selected from the group consisting of paper, polymeric film, metallized film, laminations thereof and combinations thereof (column 6, lines 30-36), providing a flower pot 30 having an upper end, a lower end and an outer peripheral surface, and forming the sheet about the outer peripheral surface of the flower pot to provide the decorative covering 34 (column 4, lines 45-48; column 6, lines 25-29; column 10, lines 40-43).

It is unclear as to whether the sheet of material has an embossed pattern on at least a portion of its first surface wherein at least a portion of the embossed pattern is visible on the decorative covering, as set forth in present claim 1. It is also unclear as to whether the sheet of material has an embossed pattern on at least a portion of its first surface and a printed pattern on at least a portion of its second surface wherein at least a portion of the embossed pattern and at least a portion of the printed pattern are visible on the decorative covering, as set forth in present claim 14.

It is well known and conventional in the decorative covering art to provide an embossed pattern on a first surface of the sheet of material and a printed pattern on a second surface of the sheet of a material such that the embossed and printed patterns are visible on the decorative covering formed from the sheet of material. Weder '606 teaches a decorative flower pot covering where the sheet of material has an embossed pattern and/or a printed pattern on its first and/or second surface such that the embossed and/or printed patterns are visible on the decorative covering (column 3, lines 20-26). Rusincovitch teaches a decorative covering where the sheet of material has an embossed pattern on its first surface and a printed pattern on its second surface such that the embossed and printed patterns are visible on the decorative covering (column 5, lines 34-40).

Therefore, it would have been obvious to one of ordinary skill in the art to provide an embossed pattern on the first surface and a printed pattern on the second surface of the sheet of material of Weder '853 such that the embossed and printed patterns are visible on the decorative covering because such is known in the art, as evidenced by Weder '606 and/or Rusincovitch, where decorative patterns meet consumer demands and embossed/printed patterns are of high quality.

As to claims 2 and 15, Weder '853 teaches such (column 6, lines 37-44; column 7, lines 51-56). As to claim 3, this was addressed above. As to claims 4-5 and 16-17, Weder '853 teaches such (column 12, lines 7-32; column 16, lines 15-25).

***Response to Arguments***

7. Applicant's arguments filed 9/6/06 have been fully considered but they are not persuasive.

8. On p. 16 of the remarks, Applicant argues that there is no teaching or suggestion in either Weder '853, Weder '606 or Rusincovitch to modify the teachings of the Weder '853 apparatus in order to reconstruct a method for providing a decorative cover for a flower pot as recited in each of Applicant's claims 1 and 14, and thus the claims which depend therefrom. Applicant also argues that Weder '606 and/or Rusincovitch teach away from the inventive concept as recited in Applicant's claims now pending in the application.

The examiner invites Applicant to reread the rejection set forth above where it is clearly established that Weder '853 teaches all of the limitations recited in claims 1 and 14, except for the sheet material having an embossed and/or printed pattern. However, Weder '853 discloses that the covering serves a decorative purpose (column 1, lines 8-10) but does not elaborate on how the covering is made decorative because one reading the reference as a whole would have appreciated this not being critical to the invention.

Therefore, one in the art would have clearly been motivated to look to other teachings in the decorative covering art for ways to render the covering of Weder '853 decorative. Therefore, as clearly stated in the rejection above, one would have been motivated by the teaching of Weder '606 and/or Rusincovitch to use embossed and/or printed patterns to render the covering of Weder '853 decorative because decorative patterns meet consumer demands and embossed/printed patterns are of high quality; especially since Weder '606, like Weder '853, is specifically directed to decorative coverings for flower pots.

As for the argument that Weder '606 and Rusincovitch teach away from the invention as recited in Applicant's claims, the examiner is unsure as to what specifics Applicant is basing this argument on. While the examiner appreciates that Weder '606 forms the sheet of material into a

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flower pot covering and then places the flower pot into the pre-formed covering instead of forming the sheet of material about the outer peripheral surface of the flower pot to provide the covering, this trivial difference in the sequence of process steps would not prevent one of ordinary skill in art from relying on Weder '606 for its more general teaching of using embossed and/or printed patterns to render a flower pot covering decorative. As for Rusincovitch, the examiner takes the same position.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Jessica L. Rossi** whose telephone number is **571-272-1223**. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard D. Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JESSICA ROSSI  
PRIMARY EXAMINER

